

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,)	Case No. 1:16 CR 169
)	
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
-vs-)	
)	<u>MEMORANDUM OPINION</u>
MICHAEL J. GARCIA,)	<u>AND ORDER</u>
)	
Defendant.)	

This case is before the Court on Defendant, Michael Garcia's Motion to Vacate pursuant to 28 U.S.C. §2255. (ECF# 66). Mr. Garcia filed a previous § 2255 motion to vacate, which was denied. (ECF #59, 62). He acknowledges, therefore, that this motion constitutes a second or successive motion to vacate his sentence. (ECF #66). Section 2255 provides that:

A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain —

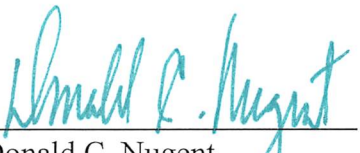
(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.

See 28 U.S.C. § 2255(h).

Although Mr. Garcia indicates in his motion that he has forwarded a copy of his request to the Sixth Circuit, he has not received authorization from the Sixth Circuit to file this successive § 2255 motion. The motion, therefore, may not be reviewed by the Court at this juncture. Therefore, the Clerk of Court is directed to transfer Mr. Garcia's instant motion to the Sixth Circuit Court of Appeals pursuant to *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997).

IT IS SO ORDERED.


Donald C. Nugent
United States District Judge

Date: June 22, 2020